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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

VICKI J. AZNARAN and
RICHARD N. AZNARAN,

Plaintiffs,

v.

CHURCH OF SCIENTOLOGY OF
CALIFORNIA, et al.,

Defendants.

) CASE No. CV 88-1786 JMI(Ex)
)
) NOTICE OF MOTION AND MOTION TO
) EXCLUDE TESTIMONY OF PLAINTIFFS'
) DESIGNATED EXPERT MARGARET
) SINGER

DATE: August 19, 1991
TIME: 10:00 a.m.
COURTROOM: Hon. James M. Ideman

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JUL 29 1991
HUB LAW OFFICES

1 TO PLAINTIFFS AND THEIR ATTORNEY OF RECORD:

2 PLEASE TAKE NOTICE that on August 19, 1991, defendants
3 Religious Technology Center, Church of Spiritual Technology,
4 Church of Scientology International, and Author Services Inc.
5 will and hereby do move the above-entitled Court, located at 312
6 N. Spring Street, Los Angeles, California 90012, for an order
7 excluding all testimony of plaintiffs' designated expert
8 Margaret Singer pursuant to Rule 403 of the Federal Rules of
9 Evidence. Pursuant to standing order in this case, the matter
10 will be submitted to the Court without oral argument.


11 This motion is brought on the ground that plaintiffs'
12 designated expert witness, forensic psychologist Dr. Margaret
13 Singer, is proffered by plaintiffs to testify on the subject of
14 coercive persuasion. Dr. Singer's thesis on this subject has
15 been rejected by the American Psychological Association because
16 it lacks scientific basis. It has also been rejected by
17 numerous courts, including the United States District Courts for
18 the Northern District of California and the District of
19 Columbia, and the Court of Appeals for the District of Columbia
20 on the grounds that it is not generally accepted in the
21 scientific community and not sufficiently established to be
22 accepted as evidence in a federal court. The Motion is further
23 brought on the following additional grounds: 1) Singer's theory
24 would require the trier of fact to evaluate religious beliefs
25 and practices, which is prohibited by the First Amendment; 2)
26 Singer has exhibited such strong bias against the Church of
27 Scientology and other newer religions that she is not qualified
28 to testify as an expert; and 3) Singer's proffered testimony

1 lacks probative value and fuels prejudices against defendants
2 warranting exclusion under Rule 403 of the Federal Rules of
3 Evidence.

4 In support of this motion, defendants reply upon this
5 Notice of Motion and Motion, the accompanying Memorandum of
6 Points and Authorities, the pleadings and records on file
7 herein, and upon such other and further evidence as may properly
8 come before the Court.

9 Dated: July 29, 1991

Respectfully submitted,

10 
11 _____
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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

VICKI J. AZNARAN and) CASE No. CV 88-1786 JMI(Ex)
22 RICHARD N. AZNARAN,)

23 Plaintiffs,) MEMORANDUM OF POINTS AND
24 v.) AUTHORITIES IN SUPPORT OF
25) MOTION TO EXCLUDE TESTIMONY
26) OF PLAINTIFFS' DESIGNATED
27) EXPERT MARGARET SINGER

CHURCH OF SCIENTOLOGY OF)
25 CALIFORNIA, et al.,)

26 Defendants.)

27) DATE: August 19, 1991
28) TIME: 10:00 a.m.
AND RELATED COUNTERCLAIMS.) COURTROOM: Hon. James M. Ideman

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INTRODUCTION

1
2 Plaintiffs Vicki and Richard Aznaran have designated a
3 forensic psychologist, Dr. Margaret Singer ("Singer"), as
4 their sole expert witness in this action, to opine on the
5 subject of "coercive persuasion." In so doing, they proffer an
6 expert to testify concerning a thesis of hers that has provoked
7 the following reactions:

8 -- Outright rejection of the thesis by the American
9 Psychological Association ("APA") because it "lacks
10 the scientific rigor and evenhanded critical approach
11 necessary for APA imprimatur...." (Letter to Singer,
12 dated May 11, 1987, from Board of Social and Ethical
13 Responsibility for Psychology of the APA, annexed as
14 Exhibit K);

15 -- Exclusion of Singer's testimony regarding her
16 thesis as she would apply it to the Church of
17 Scientology because "her views on thought reform ...
18 are not generally accepted within the scientific
19 community." United States v. Fishman, 743 F.Supp.
20 713, 723 (N.D.Cal. 1990);

21 -- Exclusion of Singer's testimony on this subject
22 because the court agreed with the Fishman analysis
23 that her testimony is "'not sufficiently established
24 to be admitted as evidence in federal courts of
25 law.'" Greene v. Maharishi Mahesh Yogi, Nos.
26 87-0015, 87-0016 (D.D.C. Mar. 12, 1991) (annexed as
27 Exhibit A), Slip. Op. at p. 14, quoting United
28 States v. Fishman, supra, at 719, and

1 -- A judgment reversed and remanded because plaintiff
2 "has failed to provide any evidence that Dr.
3 Singer's particular theory ... has a significant
4 following in the scientific community, let alone
5 general acceptance." Kropinski v. World Plan
6 Executive Council - U.S., 853 F.2d 948, 957 (D.C.
7 Cir. 1988) (emphasis in original).

8 Consequently, the Church of Scientology defendants ("the
9 Church") move to exclude Singer's testimony because her thesis
10 has been resoundingly rejected both by the relevant scientific
11 and professional communities and by federal courts from coast
12 to coast. Moreover, Singer's Theory is repugnant to the First
13 Amendment as the theory requires a trier of fact to evaluate
14 religious beliefs and practices. Further, Singer has evidenced
15 such a profound bias against the Church of Scientology and
16 other, newer religions, that she is unqualified to testify with
17 the imprimatur of an expert. Finally, Singer's proffered
18 testimony lacks probative value and fuels prejudices against the
19 Church warranting exclusion under Rule 403 of the Federal Rules
20 of Evidence^{1/}

21 STATEMENT OF FACTS

22 1. Singer's Theory

23 Singer's testimony hinges on her opinion that the Church of
24 Scientology "unduly influenced [the Aznarans] by psychologically
25 dominating them, by stripping them of their ability to reason
26 and impairing their capacity to exercise an informed consent, by

27

1. The Church is not moving to exclude the testimony of Richard
28 Ofshe, given plaintiffs' counsel's representation that he would
not be offered as an expert.

1 usurping the independence of their will and conscience."
2 Plaintiffs' First Further Responses to Defendants' Third Set of
3 Interrogatories at 17 (Oct. 15, 1990) ("Expert Interrogatory
4 Responses") (attached as Exhibit B). Singer maintains that the
5 Church can exert such influence because it engages in the
6 "systematic manipulation of social and psychological influences"
7 ("SMSPI"),^{2/} a term coined by Singer that encompasses
8 brainwashing, thought reform and coercive persuasion. Singer
9 Trial Testimony at 2084 (Mar. 11, 1986), in Wollersheim v.
10 Church of Scientology of California, No. C 332 027 (Super.Ct.
11 L.A.Cty.) at 2084 ("Wollersheim Test") (attached as Exhibit
12 C).^{3/}

13 According to Singer, the techniques used by what she
14 characterizes as current influence programs "are more powerful
15 . . . and often these programs attempt to induce conformity more
16 rapidly" than those allegedly used in the prisons of China and
17 ///

18 2. As defined by Singer, a system of thought reform consists
19 of six essential elements: (1) substantial control over
20 an individual's thought content and time, and in particular of
21 the person's social and physical environment; (2) systematic
22 creation of a sense of powerlessness in the person; (3)
23 manipulation of a system of rewards, punishment, and experiences
24 so as to promote learning of a particular belief or ideology;
25 (4) manipulation of a system of rewards, punishments, and
26 experiences to inhibit behavior that reflects beliefs held prior
27 to joining the organization; (5) a closed system of logic and
28 authoritarian structure that precludes criticism and reform of
the organization; and (6) maintenance of an uninformed state in
the subject. Singer and Ofshe, Thought Reform Programs and
The Production of Psychiatric Casualties, 20 Psychiatric
Annals 188, 189-90 (Apr. 1990) ("Thought Reform Programs").

3. Because Singer sees these three terms as essentially
synonymous, they shall be used interchangeably in this
memorandum. See, e.g. Wollersheim Test at 2627, 2084
(Ex. C).

1 Korea,^{4/} Thought Reform Programs, 20 Psychiatric Annals
2 at 189, sometimes being so effective as to cause individuals to
3 lose their will or control after only two days. See
4 Deposition of Margaret Singer at 190-91, (Oct. 10, 1989), in
5 Gorman v. Lifespring Inc., No. 87-2572 (D.D.C.) ("Gorman
6 Dep.") (Ex. F); see also Wollersheim Test at 2629 (Ex.
7 C).

8 Singer brings a wide array of organizations within the
9 sweep of those she dubs as the second generation of "interest
10 influence and control programs." Singer contends that mainstream
11 organizations such as the Fortune 500 company of Snap-On-Tools,
12 as well as so-called "cults," large awareness groups and
13 certain therapeutic communities, engage in thought reform.
14 Declaration of Margaret Singer at para. 6 (June 24, 1988);
15 Lowder v. Snap-On Tools Corp., No. 615-484 (Cal.Super.Ct.
16 Santa Clara Cty.) (attached as Exhibit G); Thought Reform
17 Programs, 20 Psychiatric Annals at 189. But she sweeps
18 selectively, as well as broadly, when characterizing groups as
19 engaging in thought reform.

20 Thus, she arbitrarily characterizes the Church of

21 4. Singer contends that her theory of SMSPI derives from
22 studies of alleged thought reform of prisoners in China and
23 Korea, as well as intellectuals in China in the 1950s, see
24 generally R. Lifton, Thought Reform and the Psychology of
25 Totalism (1961) ("Thought Reform"); Schein, Coercive
26 Persuasion (1961); see also Declaration of Margaret T.
27 Singer in support of Plaintiffs' Motion in Limine Re: Thought
28 Reform, submitted in Miller v. Lifespring, No. 867-859 (Cal.
Super.Ct. March 1989) ("Miller Decl.") (attached as Ex.
D), although Singer's theory, unlike Lifton & Schein's models,
does not require physical force or constraint or the threat of
these sanctions. Singer Trial Testimony at 2879-82 (Mar. 25,
1985), in Christofferson v. Church of Scientology of
Portland, No. A7704 05184 (Oregon Circuit Ct. Multnomah
Cty.) ("Christofferson Test") (attached as Exhibit E).

1 Scientology (but not the Catholic Church) as engaging in
2 coercive persuasion because, in her opinion, it supposedly
3 isolates disciples, controls their environment, places demands
4 that limit sleep, subjects them to peer pressure and positive
5 and negative reinforcement, prohibits dissent and sometimes
6 induces fear, guilt, and emotional dependency. Expert
7 Interrogatory Responses at 17 (Ex. B). Compare with
8 Declaration of Dr. Frank K. Flinn, dated May 30, 1991, paras.
9 18, 24, 26-31, 33 ("Flinn Decl.") (attached as Exhibit H)
10 (discussing demands on nuns and monks). Because Singer's thesis
11 rests upon unsubstantiated assertions, it is not surprising that
12 she has never subjected her claims to empirical tests. It is
13 for that and other reasons that her theories are disavowed and
14 disapproved by the relevant communities.

15 2. Rejection of Singer's Methodology & Theory

16 By the Professional Community

17 Singer's "studies" from which she concludes that particular
18 organizations are coercive rest only on her reading of materials
19 by and about the organization and conversations with a limited
20 number of former members, see, e.g., Wollersheim Test at
21 2266-70 (Ex. C); Christofferson Test. at 2688, 2773-75 (Ex.
22 E),^{5/} and her conclusions that the institution at issue
23 caused an individual "psychological" harm derived most often
24 solely from an interview with the hostile former member.
25 Gorman Dep. at 103 (Ex. F). In neither instance does Singer

26 5. Thus, for example, Singer concluded in August, 1977 that the
27 Church of Scientology engages in thought reform solely on the
28 basis of reading several Church publications and speaking with
six or seven former members. Christofferson Test at 2779.
(Ex. E).

1 look to a control or comparison group to guide or support her
2 purported findings, nor regularly verify statements by the
3 individual's reference to objective reports or sources. Singer
4 has not published any systematic factual analysis or empirical
5 studies to support her assertions. (See Declaration of Perry
6 London, Section V, for a full discussion of the lack of
7 scientific testing and validity of Singer's theories, Exhibit
8 R.)

9 Singer's work not only lacks acceptance, but has been
10 resoundingly rejected by her peers. In 1987, Singer chaired the
11 Task Force on Deceptive and Indirect Methods of Persuasion and
12 Control ("the Task Force") of the American Psychological
13 Association ("APA"), which issued a report (the "Task Force
14 Report") addressing "psychological influence techniques and
15 their consequences, as exemplified in cults and large-group
16 awareness trainings." See Task Force Report at 11 (attached as
17 Exhibit I). The Task Force Report, which Singer drafted,
18 discussed what it disapprovingly calls "cults," Deposition of
19 Margaret Singer at 217-18 (July 22, 1987) in Slee v. Werner
20 Erhard, No. N-84-497-JAC (D.C. Conn.) ("Slee Dep.")
21 (attached as Ex. J), and concluded that many new members to
22 such groups were especially accessible to the recruitment and
23 persuasion techniques of the groups in question and that a
24 "significant percentage" of those individuals are "clearly
25 harmed." Task Force Report at 27 (Ex. I.) The Report by its
26 own statement presented these conclusions without any "reliable
27 data . . . which would permit a comparison of the frequency of
28 physical or psychological harm in religious cults and in

1 mainstream society." Id. at 17. In fact, the Report conceded
2 that in the absence of reliable data "conclusions must be based
3 on anecdotal reports and investigations of groups which have
4 caught researchers' attention for one reason or another." Id.
5 In this instance, this "data" was nothing more than "knowledge"
6 Singer gleaned from individuals already hostile to the
7 organization in question and in most instances engaged in
8 litigation with the group being castigated, as well as isolated
9 anecdotes reported in literature. Slee Dep. at 217-18 (Ex.
10 J).

11 The Board of Social and Ethical Responsibility for
12 Psychology ("BSERP") of the APA reviewed and rejected the Task
13 Force Report:

14 BSERP . . . is unable to accept the report of
15 the Task Force. In general, the report lacks
16 the scientific rigor and evenhanded critical
17 approach necessary for APA imprimatur. . . .

18 The Board cautions the Task Force members
19 against using their past appointment to imply
20 BSERP or APA support and approval of the
21 positions advocated in the report.

22 BSERP letter to M. Singer dated May 11, 1987 (attached as
23 Exhibit K).^{6/} Based upon a similar analysis of the

24 methodological deficiencies and lack of scientific procedures

25 6. Singer has attempted to downplay the rejection by asserting
26 that the Board reviewed only a draft. See Slee Dep. at
27 366-69 (Ex. J). She, however, characterizes the report as
28 "accurate," Slee Dep. at 369, and the work that remained as
only a task of incorporating and criticizing additional studies.
Slee Dep. at 368. She does not indicate that the methodology
or approach was to change in any way.

1 underpinning Singer's theory and "studies," Dr. Perry London,
2 Dean of the Graduate School of Applied and Professional
3 Psychology at Rutgers University, concluded that Singer's
4 "theory of social influence which argues the existence of
5 irresistible social influence processes and/or irreversible
6 social influence process and/or subversion of will as a result
7 of these social influence processes, is not a viable argument
8 from the viewpoint of contemporary scientific psychology."
9 (London Declaration, para. 41, Ex. R.)

10 In Molko v. Holy Spirit Ass'n, 46 Cal.3d 1092, 252
11 Cal.Rptr. 122 (1988), cert. denied, 490 U.S. 1084 (1989),
12 members of the psychological, academic and religious
13 communities filed amicus briefs urging affirmance of the
14 district court's exclusion of Singer's proffered testimony on
15 thought reform.^{7/} Twenty-three individuals, including
16 psychologists, as well as professors of sociology and religion,
17 submitted a brief before the California Supreme Court in which
18 they argued principally that Singer's conclusions were not
19 scientific in any meaningful sense and that her methodologies
20 "depart so far from methods generally accepted in the relevant
21 professional communities that they are incapable of producing
22 reliable or valid results." Brief of Amicus Curiae Eileen Barker
23 et al. at 8 (attached as Exhibit L).^{8/} A similar brief

24 ^{7.} The arguments set forth in these amicus briefs were not
25 addressed by either court to which they were presented. The
26 California Supreme Court explicitly declined to do so because
27 these arguments were not raised below. Molko v. Holy Spirit
28 Ass'n, 46 Cal.3d 1092, 1111 n.13, 252 Cal.Rptr. 122, 132,
n.13 (1988). The United States Supreme Court, given that it
denied certiorari, obviously did not address the arguments.

8. The APA initially signed this brief. The organization
(footnote continued)

1 was filed with the United States Supreme Court by the Society
2 for the Scientific Study of Religion and 50 renowned scholars
3 and mental health professionals, in support of defendants'
4 petition for writ of certiorari in Molko. See generally
5 Brief of Amicus Curiae of Society for the Scientific Study of
6 Religion, et al. (attached as Exhibit N).^{9/}

7 Finally, several courts have found Singer's theory so
8 lacking acceptance as to warrant its exclusion. In United
9 States v. Fishman, 743 F.Supp. 713 (N.D.Cal. 1990), the
10 court excluded Singer's testimony about the Church of
11 Scientology's supposed "influence techniques" because the Court
12 found that "her views on thought reform . . . are not generally
13 accepted within the scientific community." 743 F.Supp. at 723.
14 Most recently, Singer was excluded as an expert witness in
15 Greene v. Maharishi Mahesh Yogi, Nos. 87-0015, 87-0016
16 (D.D.C. Mar. 12, 1991) (Ex. A). The court in Greene, as in
17 Fishman, found there to be "insufficient evidence of
18 acceptability to allow the testimony to be admitted." Slip. op.

(footnote continued)

19 withdrew its name when the Board of Directors, upon learning
20 that a Task Force had been established to consider the issues
21 the amicus brief addressed, decided that "it was premature. . .
22 to endorse positions taken in the amicus brief prior to
23 completion of the task force study" Motion of the APA
24 to Withdraw as Amicus Curiae, in Molko v. Holy Spirit
25 Association (Mar. 27, 1987) (attached as Ex. M). The
26 subsequent rejection of the Task Force Report by BSERP, the APA
27 board responsible for reviewing the Report, suggests that the
28 APA would adhere to the view expressed in the amicus brief,
namely that the scientific community does not accept Singer's
theory or methodology.

9. When the brief was filed, the American Sociological
Association ("ASA") was also an amicus; however, like the APA,
the ASA withdrew its name. Neither at the time nor subsequently
did the ASA state that its withdrawal was premised on a
reassessment of and contrary conclusion about Singer's work.
See United States v. Fishman, 743 F.Supp. at 718.

1 at 14.10/
2

3 ARGUMENT

4 The proffered testimony of Singer is admissible only if it
5 (1) is that of a qualified expert; (2) addresses a "proper
6 subject"; (3) conforms with a generally accepted explanatory
7 theory; and (4) possesses sufficient probative value to outweigh
8 any prejudicial effect. See United States v. Amaral, 488
9 F.2d at 1153; United States v. Gwaltney, 790 F.2d 1378,
10 1382-83 (9th Cir. 1986), cert. denied, 479 U.S. 1104
11 (1987). Singer's proposed testimony, as detailed below, cannot
12 satisfy a number of these criteria, nor is her theory
13 "sufficiently established to have gained general acceptance in
14 the particular field in which it belongs." Frye v. United
15 States, 293 F. 1013, 1014 (D.C. Cir. 1923); see also
16 United States v. Gillespie, 852 F.2d 475, 480 (9th Cir.
17 1988) (applying Frye test); United States v. Gwaltney, 790
18 F.2d at 1381 (same).

19 I. SINGER'S TESTIMONY IS INADMISSIBLE AS IT DOES
20 NOT CONFORM TO A GENERALLY ACCEPTED THEORY

21 A. The Methodology Used by Singer Lacks

22 General Acceptance in the Scientific Community

23 1. Singer's Sample Is Biased

24 First, as Singer's critics have noted, the sample upon
25 which Singer relies for her conclusion that the Church of

26 10. See also Kropinski v. World Plan Executive
27 Council, 853 F.2d 948, 957 (D.C. Cir. 1988) (finding court
28 erred when admitting Singer's testimony given absence of
evidence that "Singer's particular theory, namely that
techniques of thought reform may be effective in the absence of
physical threats or coercion" has general acceptance).

1 Scientology purportedly engages in the systematic manipulation
2 of psychological and social influences is notably and fatally
3 skewed. Singer relies for her knowledge of and conclusions
4 about the Church of Scientology solely on interviews with former
5 members, their families, and a review of articles or books
6 published by the Church. Wollersheim Test at 2266-70 (Ex.
7 C). Furthermore most of former Scientologists whom Singer has
8 interviewed were suing or contemplating suing the Church and
9 had a clear interest in alleging that they had been somehow
10 "manipulated" and "psychologically damaged."

11 Clearly those who leave a religion or any organization are
12 a non-representative sample of all past and current members.
13 See e.g., Galanter, Unification Church ("Moonie") Drop-
14 outs: Psychological Readjustment After Leaving A Charismatic
15 Religious Group, 140 Am. J. Psychiatry 984, 988 (1983)
16 (hereinafter "Unification Church Dropouts") (noting likely
17 animosity of those who leave a group, such as Unification
18 Church). In fact, the great majority of Singer's sample have
19 self-serving reasons to characterize the Church as coercive and
20 to blame it for harm. Many are interviewed only after they
21 have initiated litigation against the Church or therapy with
22 Singer. Christofferson Test at 2770-79 (all individuals
23 upon whom Singer based her conclusion that the Church engages
24 in coercive persuasion were in treatment or litigation) (Ex.
25 E).^{11/} As one scholar has commented, "Singer's method in
26 hampered by a . . . major problem, namely, that the information

27 ^{11.} The bias in the litigation context is well-recognized.
28 See, e.g., United States v. Gambler, 662 F.2d 831, 834
(D.C. Cir. 1981).

1 she collects about the [groups] does not stand the test of
2 impartiality and objectivity." J. Saliba, Psychiatry And The
3 Cults xxii-xxiii (1987).

4 Even Singer has recognized the limitations of such a
5 sample. She has conceded that self reports of individuals are
6 subjective. Slee Dep. at 141 (Ex. J). Moreover, an
7 article which Singer coauthored criticizes similar methodology
8 used to study allergy patients. Feingold, Singer, Freeman &
9 Deskins, Psychological Variables in Allergic Diseases, 38
10 Journal of Allergy 145 (1966) ("Singer, Psychological
11 Variables") ("In some studies the diagnosis of allergy depends
12 upon the mere self-description that one is 'allergic'. . .
13 with no attempt to confirm the diagnosis through history,
14 physical findings, or skin testing"). Nonetheless, Singer
15 relies on "mere self-descriptions" of the alleged coercive
16 nature of the Church. She makes no effort to confirm her
17 "diagnosis," either by personally observing the Church's
18 practices or comparing the tales recounted by those who have left
19 the Church to those who remain members.^{12/} Compare with
20 Galanter, Unification Church Dropouts (comparing those who left
21 Church with sample who had been recruited but not yet joined,
22 sample of active members and sample of general population).

23 12. A comparable study resting solely on current, satisfied
24 Church members would be immediately recognized for its bias and
25 limitations, even -- or particularly -- by Singer. For example,
26 she criticizes Marc Galanter's recent book which draws primarily
27 on responses of current members of groups to a questionnaire,
28 because "[t]here is little or no indication that he has had
long-term therapeutic or other contact with former members of
even the groups he studied via questionnaires." She states that
she is "wary to "express [] enthusiasm" for a work that relies
on so "narrow and non-representative" a sample. Singer, Book
Review of Marc Galanter: Cults: Faith, Healing and Coercion,
Cult Awareness Network News (Sept. 1989).

1 Singer's biased "sampling" techniques and her tautological
2 theory wholly exclude as a possibility the logical and prima
3 facie fact that individuals join and remain in the Church of
4 Scientology because they find personal satisfaction through the
5 teachings and practices of the Church. Nor does she even
6 attempt to deal with the variables which pertain when some
7 individuals voluntarily choose to cease to be Scientologists.
8 Such factors would destroy the closed circle of logic by which
9 Singer finds all who adhere to the religion to be "manipulated"
10 and all who have left, to have been "harmed."

11 For example, in an analogous context Singer has concluded
12 that the Unification Church's "sophisticated indoctrination
13 techniques," to use her labels, render individuals incapable of
14 exercising judgment; even where individuals have been subject to
15 the Church's influence for little more than two weeks. See
16 Molko v. Holy Spirit Ass'n, 46 Cal.App.3d at 1106, 1108-11,
17 252 Cal.Rptr. at 128, 130, 131. But, studies of the
18 Unification Church demonstrate that over ninety percent of those
19 exposed to its recruitment practices choose not to affiliate
20 with the Church. See e.g., E. Barker, The Making of a
21 Moonie, 146 (1984); Galanter, Psychological Induction into
22 the Large Group: Findings from a Modern Religious Sect, 137
23 Am. J. Psychiatry 1575 (1980).^{13/}

24 13. Singer's "studies" of those institutions she deems coercive
25 fail to account for other contrary data as well. For example,
26 one study, based on a comparison of those in and those who had
27 departed from a so-called "cult," found no impairment in the
28 ability of members to make sound judgments. Ungerleider &
Wellisch, Coercive Persuasion (Brainwashing), Religious Cults
and Deprogramming, 136 Am.J. Psychiatry 279, 281 (1979).
This study not only clearly conflicts with Singer's conclusion
that the Church and other religions of which she disapproves
(footnote continued)

1 Because Singer's sample is so skewed, members of her
2 professional community have dismissed her conclusions. See
3 Richardson, Classical and Contemporary Applications of
4 Brainwashing Models: A Comparison and Critique (use of only
5 former members as data "preclude[s] the possibility of drawing
6 valid generalizations"), in Bromley & Richardson, The
7 Brainwashing Deprogramming Controversy (1983). It is as if,
8 to evaluate the institution of marriage, Singer spoke only to
9 individuals in the midst of contentious divorce proceedings,
10 ignoring those who were happily married or who separated
11 amicably, or without observing interactions among any married
12 couples. The validity and reliability of this work would be
13 readily and properly disregarded. So, too, is Singer's.

14 2. Singer Has Shown No Correlation Between Church
15 Membership and Psychological Harm

16 Here, as in other cases in which Singer has attempted to
17 testify that the plaintiff was psychologically harmed by some
18 religious or other institution, Singer relies solely on her
19 interviews with the plaintiffs, and does not compare to a
20 relevant control group. As Singer's peers have noted, however,
21 this methodology is insufficient to establish a correlation,
22 let alone a causal relationship, between membership and harm.

23 (footnote continued)
24 impair and even preclude members from independent judgment,
25 Christofferson Test at 2726-29, 2927-32 (Ex. E), but its
26 conclusion rests on generally accepted methodology. Singer does
27 not acknowledge, let alone account for, this finding in her
28 work. See generally James, Brainwashing: The Myth and
The Actuality, 61 Thought 241, 255 (1986) (emphasizing
"implausibility of the claim" that new religions brainwash
people, given small percentage of those attending workshops that
join and high defection rate).

1 For the claim that there is even a correlation between
2 Church membership and psychological harm to have validity,
3 Singer would have to compare her sample to a relevant control
4 group in order to establish that these harms occur more
5 frequently in those who have been or are affiliated with the
6 Church than among those in the general population who are
7 comparable in age, economic status and other variables.
8 Compare Gorman Dep. at 169 (Ex. F) (Singer concedes she
9 has no knowledge how those in Lifespring compare to general
10 population), with Galanter, Unification Church Dropouts
11 at 985 (finding mean scores on general well-being schedule of
12 former members "no different from those of the matched sample
13 from the general population").

14 Not only does Singer concede that such data does not exist,
15 Task Force Report at 17 (Ex. I), she acknowledges the
16 limitations of the data that does exist. For example, in her
17 deposition in Slee in which she asserted that EST's thought
18 reform techniques were a causal factor in Slee's death, Singer
19 stated that "the reports of psychological harm as the result of
20 EST training remain anecdotal." Slee Dep. at 180-81 (Ex. J).
21 Singer states that in "anecdotal" reports, "observers and
22 reporters have gathered cases and presented them as anecdotes to
23 illustrate an offering of either a theoretic or speculative or
24 reporting nature in the professional literature." Id. In so
25 doing she concedes that the data is not gathered in a
26 systematic, scientific manner. Thus by her own statement, such
27 anecdotes could be used to illustrate a claim, but never to
28 prove a theory.

1 The data about the Church of Scientology is similarly
2 anecdotal: Singer has never endeavored to gather data using a
3 comparison group, to establish in any systematic manner that
4 membership in the Church correlates with harm. Nor has she
5 attempted in any way to address the many studies finding that
6 participation in new religions alleviate psychiatric distress.
7 See, e.g., Richardson, Psychological and Psychiatric
8 Studies of New Religions 209 (summarizing studies) in
9 Advances in The Psychology of Religion (Vol. 11) (Brown,
10 ed., 1985). Accordingly, her theory, even as to correlation,
11 remains speculative at best.

12 3. Singer Fails to Show that the Church
13 Caused Any Psychological Harm

14 Even if Singer had established a correlation between
15 membership in the Church and psychological distress, that alone
16 would not support a finding of causation, as Singer's "research
17 designs [do not] control for plausible rival hypotheses." J.
18 Neale & R. Leibert, Science and Behavior: An Introduction to
19 Methods of Research 13-14 (1980); quoted in Monahan &
20 Walker, Social Science in Law, 54-55.

21 For example, Singer fails to consider whether the alleged
22 psychological distress she purportedly observes in individuals
23 might be explained by pressures they are faced with in their
24 environment. Such an hypothesis is suggested by the finding of
25 scholars in other contexts that members of some new religions
26 experience relief from psychological distress upon joining and
27 that this relief is closely associated with their affinity for
28 and degree of participation in their new religion. Galanter,

1 Cults: Faith, Healing and Coercion, 34-36, 174 (1989);
2 Galanter, Unification Church Dropouts at 988. Similarly,
3 absent comparison with a control group of those who left the
4 Church voluntarily and have not sought counseling, Singer cannot
5 soundly conclude that the experience in the Church, rather than
6 deprogramming (a violent form of forcible extraction from a
7 religious body espoused by Singer) underlies the account of
8 psychological harm.

9 Singer attempts unsuccessfully to account only for the
10 rival hypothesis that the condition or conditions she observes
11 predated Church membership. She regularly, as she does in this
12 case, relies for assessment of the individual's state prior to
13 affiliation with the institution at issue solely on the
14 accounts of the individual and her or his family, ignoring the
15 obvious bias of former Church members in litigation with the
16 Church, as well as that of their family and friends.^{14/}

17 Saliba, Psychiatry and the Cults xxiii. See e.g.,
18 United States v. Gambler, 662 F.2d 834, 837 (D.C. Cir.
19 1981). Singer often does not attempt to corroborate the
20 individual's accounts by reviewing medical or other records
21 which predate the individual's affiliation.^{15/}

22 ^{14.} Singer herself, in an article she coauthored addressing
23 court testimony, cautions that a party's reports cannot be
24 accepted at face value and underscores the need to consider the
25 effect of the suit on the person's motivation. M. Singer & A.
26 Nievod, Consulting and Testifying in Court, in Handbook of
27 Forensic Psychology 532 (1987).

28 ^{15.} The subject's bias is only compounded by Singer's. For
29 example, she began her interviews of the Aznarans in this case
30 only after having concluded years before that the Church of
31 Scientology engaged in coercive persuasion, Christofferson
32 Test at 2779 (Ex. E), a technique that she generally
33 characterizes as producing "psychiatric casualties." See
34 Thought Reform Programs at 190-91. The Molko trial court
35 (footnote continued)

1 Moreover, when attempting to account for this rival
2 hypothesis, Singer fails to address scholarships supporting the
3 rival hypothesis. For example, she does not in any way account
4 for or refute the finding of at least one scholar who found that
5 the psychological well-being of those who attended a Unification
6 Church workshop was considerably below that of a comparative
7 sample of the general population. Galanter, Unification
8 Church Dropouts at 985-96.

9 Singer herself, in an article she coauthored, has
10 recognized studies addressing personality factors in allergic
11 disorders as marred because they exhibit the precise flaws that
12 characterize Singer's finding of a causal relationship between
13 Church membership and psychological harm. Singer,
14 Psychological Variables at 144 (Singer criticizes allergy
15 study for failing to consider whether emotional qualities were
16 present prior to illness, or were the result of other unknown
17 third factors).^{16/}

18 Singer's finding of causation is similarly flawed. To draw
19 once more on the analogy to the study of marriage, it is as if
20 one concluded, after talking to several people who were unhappy
21 in the midst of divorce, that marriage caused their problems,

22 (footnote continued)
23 assessment of Singer is thus applicable here, namely that Singer
24 "seem[s] to have reasoned backwards from [her] disapproval of
25 [the Unification Church's] methods to the conclusion that
26 Plaintiffs were not thinking freely because they were persuaded
27 by them." Molko, 198 Cal.App.3d 199, 224 Cal.Rptr. 817, 826
28 n.9 (1986).

16. Singer has recently attempted to deflect criticism of her
methodology by characterizing her conclusions as the product
of a "single case study" but to no avail. Such "studies" are in
fact only anecdotal reports, the scientific usefulness of which
is suspect.

1 without assessing whether they had been unhappy previously or
2 excluding as a cause of their unhappiness the process of
3 divorce or adjustment to the separation. Not only that, it is
4 as if all accounts of the marriage, in particular the
5 characterization of one another's role in its demise, were
6 accepted at face value.^{17/}

7 Neither Singer's methodology nor its rejection by the
8 relevant academic communities has changed since the filing
9 of the APA and ASA amicus briefs or the rejection of the
10 Task Force Report.^{18/}

11 Given Singer's skewed samples and lack of any control
12 group, she may speculate that membership in the Church caused

13
14 17. Finally, Singer's approach both to her findings of coercion
15 and causation is not amenable to testing and confrontation by
16 other professionals to ensure its validity, as the data has
17 never been published. In fact, not all of the data has even
18 been recorded. Christofferson Test at 2867-69 (Ex. E).
19 However, "[t]he scientific approach requires that all claims be
20 exposed to systematic probe." J. Neale & R. Liebert, Science
and Behavior: An Introduction to Methods of Research 13-14
(1980); see also Richardson v. Richardson-Merrell, 857
F.2d 823, 831 (D.C. Cir. 1988) (emphasizing failure of expert
to publish or offer study for peer review as factor casting
doubt on acceptance), cert. denied, ___ U.S. ___, 110 S.Ct.
218 (1989).

21 18. The data that underlies Singer's "study" of the Church of
22 Scientology is no different than that on which the Task Force
23 Report rested. The data that "caught" Singer's attention and
24 thus formed the basis for the Task Force Report discussion of
25 those new religions she disparagingly calls "cults" were nothing
26 other than "knowledge that [she] had gotten from the therapy of
27 a number of individuals that had been in cults or large
28 awareness trainings and . . . that [she] had gathered from
certain legal cases that [she] had had contact with," Slee
Dep. at 218-19, as well as that reported in literature. The
"data" upon which Singer's opinion of the Church rests also
consists similarly of "anecdotal reports" derived from a
biased sample of individuals seen for therapy or a legal
consultation, plus familiarity with some literature.

1 certain distress she identifies in the Aznarans and that the
2 Church employs techniques of coercive persuasion, but this
3 speculation has not and cannot, consistent with accepted
4 scientific principles, gain acceptance in the relevant
5 scientific community. Shatkin v. McDonnell Douglas Corp.,
6 565 F.Supp. 93, 95 (S.D.N.Y. 1983) (excluding expert whose
7 opinions were based on "assumptions that are so speculative that
8 they amount to gross conjectures"); see also Richardson v.
9 Richardson-Merrell, Inc., 857 F.2d at 829-33 (finding expert
10 testimony unsupported because of unsound basis for findings of
11 causation). Accordingly, this Court, like the courts in
12 Fishman and Greene, must exclude her testimony.

13 B. Singer's Theory of Coercive Persuasion

14 Lacks General Acceptance

15 Singer's theoretical premise, no less than her method-
16 ology, lacks general acceptance in the scientific community, as
17 it fails to distinguish the allegedly coercive practices of the
18 Church of Scientology and others she maintains use SMSPI from
19 the myriad of socially acceptable organizations that actively
20 attempt to and even successfully influence behavior. Indeed,
21 Singer's paradigm is more accurately a description of the
22 dynamic process of any group, from a college fraternity to an
23 urban political machine or even a class of law students than it
24 is a useful theoretic analysis of an undefined concept of some
25 special and specific behavior which could be labelled
26 "brainwashing" or "thought reform."

27 Singer, like Lifton, sees a continuum of influence, set off
28 at one extreme by physical restraint and punishment and at the

1 other by reason, open exchange and other nondirective
2 techniques. Singer, Group Psychodynamics in R. Berkow (ed.),
3 Merck Manual (1987); see also Task Force Report at Figure
4 1 (Ex. I).^{19/} Singer's claim -- that she, or anyone for
5 that matter, can identify with accuracy the point on this
6 continuum at which techniques of influence that do not rely on
7 threats of or actual physical force or restraint become coercive
8 -- is fraught with controversy.

9 First, scholars question whether, absent physical force or
10 threats, influence processes can be labelled as and proven to be
11 coercive, in that they could strip an individual of free will.
12 See, e.g., James, Brainwashing supra, at 254; Barker,
13 Making of A Moonie, supra, at 264-265; Solomon,
14 Programming and Deprogramming the "Moonies": Social Psychology
15 Applied, in The Brainwashing/Deprogramming Controversy 179
16 (D. Bromley & J. Richardson eds. 1983); Robbins & Anthony,
17 Brainwashing and the Persecution of Cults, 19 J. of Religion
18 and Health 66 (1980); Reich, Brainwashing, Psychiatry, and the
19 Law, 39 Psychiatry 400, 403 (1976).

20 Even the models studied by Lifton and Schein, which by all

21 19. Singer, as do Lifton and Schein, recognizes that influence
22 processes pervade not only those new religions she pejoratively
23 labels cults, but also organizations such as college
24 fraternities, the Armed Forces, mainstream Christian groups, and
25 self-help groups such as Alcoholics Anonymous. Schein,
26 Coercive Persuasion, at 275. Lifton, for example,
27 acknowledges that totalism is a "widespread phenomenon" and
28 notes the prevalence of its elements -- such as milieu control,
guilt, shame and confessional, group sanction -- in an array of
organizations, including educational, psychological, religious
and political organizations, many of which attempt to persuade
individuals to adopt and conform to their point of view.
Lifton, Thought Reform & The Psychology of Totalism 438-61
(1961).

1 accounts fall at or near the extreme of the influence continuum,
2 are of limited effectiveness. Lifton, for example, considering
3 the "accomplishments" of the thought reform program in Chinese
4 prisons in the 1950s, speaks of only six apparent converts.
5 Lifton, Thought Reform 131. Within the universities, Lifton
6 found the most common response to the "program" was that of
7 those he characterized as "adapters" -- those who were
8 "partially but not entirely convinced by the program;
9 essentially [they were] concerned with the problems of coping
10 with a stressful experience and finding a place in a new
11 society." Id. at 401. See also Schein, The Chinese
12 Indoctrination Program for Prisoners of War: A Study of
13 Attempted "Brainwashing" in Readings in Social Psychology 332
14 (Macoby, ed. 1988) (characterizing even temporary change in
15 belief as rare and thus program as failure).

16 Second, there is no consensus about how to assess with
17 scientific validity whether an influence process lacking
18 physical force is coercive. The court in Fishman, addressing
19 this problem, stated:

20 [W]hen a seemingly fit but harmless beggar asks
21 for money, some people are inclined to give money
22 and others are not. But when a mugger holds a
23 knife at a victim's throat and asks for money,
24 most people give it. . . The Court finds general
25 acceptance within the scientific community (and
26 elsewhere) that armed mugging is sufficiently
27 coercive to overcome an average person's free
28 will. But the proffered testimony in this case

1 relates to coercive persuasion without the use or
2 threat of physical force.

3 743 F. Supp at 719. As the court's example suggests, absent
4 physical force, restraint or threats, the distinction between
5 the techniques of influence deemed acceptable persuasion and
6 those cast as coercive diminish or even collapse. James,
7 Brainwashing, 61 Thought at 255 (failure to limit use of word
8 "coercive" to instances involving the use or threat of physical
9 force "obliterate[s] the distinction between the voluntary and
10 involuntary"); see also Schein, Coercive Persuasion 275
11 (social pressures in psychoanalysis, revival meetings,
12 fraternities, AA, among others, "can be as coercive as the
13 physical constraints" described in the study).

14 As stated in Meroni v. Holy Spirit Association, in which
15 the plaintiff, like the Aznarans, sought damages for harm
16 allegedly resulting from affiliation with a newer religious
17 group:

18 The claim of brainwashing is based upon the
19 activities ... which as previously noted, are
20 commonly used by religious and other groups, and
21 are accepted by society as legitimate means of
22 indoctrination. They are not classifiable as so
23 extreme or outrageous, or offensive to society, as
24 to incur liability therefor.

25 Meroni, 119 A.D.2d 200, 506 N.Y.S.2d 174, 178 (1986).

26 Similarly, the Supreme Court recently rejected an argument
27 that the prohibition against involuntary servitude should
28 encompass "compulsion through psychological coercion." United

1 States v. Kozminski, 487 U.S. 931, 949 (1988). The Court
2 reasoned that an expansion of the definition to include
3 psychological coercion would bring within the definition "a
4 broad range of day-to-day activity," including coercion by a
5 parent who threatens to withhold affection so as to induce a
6 child to work in a family business; by a political leader who
7 uses charisma to persuade others to work without pay; and by a
8 religious leader who uses religious indoctrination to obtain
9 personal services. Kozminski, 487 U.S. at 949; see also
10 id. at 960 (Brennan J., concurring). Singer's theory asks
11 this Court to expand the basis of liability in precisely the way
12 the Kozminski and Meroni courts rejected.^{20/}

13 Guided by scholarly criticism of theories of coercion or
14 brainwashing absent force, this Court, like Fishman, must find
15 that Singer's theory regarding the "coercive persuasion"
16 allegedly practiced by religious organizations "is not
17 sufficiently established to be admitted as evidence in federal
18 courts of law." Fishman, 743 F.Supp. at 719; see
19 also Molko v. Holy Spirit Ass'n, 252 Cal.Rptr. at
20 130-31 (emphasizing controversy about the very existence
21 of brainwashing and its effectiveness absent physical

22 ^{20.} Although the complaint falsely alleges that Vicki Aznaran
23 was briefly restrained while on the Rehabilitation Project
24 Force ("RPF") -- years after she joined the Church, Complaint
25 para. 22 -- Singer's conclusions about the coercive nature of
26 the Church and its effect on the Aznarans do not rely on this
27 alleged occurrence. Rather, according to Singer, the Aznarans
28 had long before been "systematically manipulated" by the
Church. See Expert Interrogatory Responses at 8-11 (Ex. B)
(recounting early experiences in Church as evidence of undue
influence). Moreover, it would be absurd to maintain that this
alleged force was integral to the supposed coercion, given that
the alleged experience on the RPF prompted the Aznarans'
departure from the Church. See Complaint paras. 24-28.

change to always

1 force or restraint).^{21/}

2 II. SINGER'S THEORY OF COERCIVE PERSUASION
3 CANNOT, CONSISTENT WITH THE FIRST
4 AMENDMENT, UNDERLIE PLAINTIFFS' CLAIM

5 Concerted efforts to change the behavior or ideas of
6 others, even when deemed coercive, have consistently been
7 accorded First Amendment protection and thus been immune from
8 tort liability in the absence of physical force or the threat of
9 force. NAACP v. Claiborne Hardware, 458 U.S. 886 (1982)
10 ("Speech does not lose its protected character, however, simply
11 because it may embarrass others or coerce them into action");
12 see also Organization for a Better Austin v. Keefe, 402
13 U.S. 415, 419 (1971) ("The claim that the expressions were
14 intended to exercise a coercive impact on respondent does not
15 remove them from the reach of the First Amendment"). Like the
16 speech protected in Claiborne Hardware, the speech underlying
17 the Aznarans' complaint is designed to entice individuals to
18 participate, to change their patterns, and to identify publicly
19 with that which may be unpopular. However, unlike the speech
20 involved in Claiborne Hardware, the speech alleged to
21 constitute or underlie the Church's "systematic manipulation of
22 social and psychological influence" is protected not only by the
23 speech, but also the religion, clause of the First Amendment.

24 In fact, numerous courts, including this Circuit, have

25 21. See also United States v. Kozminski, 821 F.2d 1186,
26 1194-95 (6th Cir. 1987), (en banc; id. at 1211
27 (Krupansky, J., concurring) (characterizing expert's theory of
28 psychologically induced servitude absent forceful physical
confinement as a thesis "which has its basis in an unproved
hypothesis . . . and which has no acceptance in the scientific
field to which it belongs"), aff'd 487 U.S. 931 (1988).

1 dismissed similar, if not virtually identical claims involving
2 "brainwashing" or comparable conduct because of the threat these
3 actions pose to religious liberty. In Paul v. Watchtower
4 Bible Tract Society, 819 F.2d 875 (9th Cir.), cert.
5 denied, 484 U.S. 926 (1987), the Ninth Circuit held that the
6 free exercise clause barred tort liability as a result of the
7 Jehovah Witness religious practice of shunning: "No physical
8 assault or battery occurred Offense to someone's
9 sensibilities resulting from religious conduct is simply not
10 actionable in tort. Without society's tolerance of offenses to
11 sensibility, the protection of religious differences mandated by
12 the first amendment would be meaningless." Id. at 883
13 (citations omitted).

14 In fact, the process Singer labels coercive has been
15 recognized as essential to or indistinguishable from religious
16 conversion and thus constitutionally protected. See, e.g.,
17 Meroni v. Holy Spirit Association for Unification, 119 A.D.2d
18 200, 506 N.Y.S.2d 174, 177-78 (2d Dept. 1986) (claim of
19 brainwashing failed to state a cause of action because premised
20 on activities "commonly used by religio[ns] . . . [and] accepted
21 by society as legitimate means of indoctrination"); Katz v.
22 Superior Court, 73 Cal.App.3d 985, 986-87, 141 Cal.Rptr. 234,
23 255-56 (1977) (First Amendment bars inquiry into whether
24 religious affiliation resulted from faith or coercive
25 persuasion, as such a determination would inevitably require
26 questioning of religious beliefs); George v. International
27 Society for Krishna Consciousness, 213 Cal.App.3d 729, 262
28 Cal.Rptr. 217, 236 (1989) (false imprisonment claim premised on

1 brainwashing "no more than an attempt to premise tort liability
2 on religious practices the Georges find objectionable," and thus
3 barred by the First Amendment); Lewis v. Holy Spirit Ass'n,
4 589 F.Supp. 10, 12 (D. Mass 1983) (dismissing tort claims
5 premised on alleged brainwashing).^{22/}

6 As Paul, Meroni and Katz illustrate, courts and
7 juries, no less than legislatures, cannot burden the free
8 exercise of religion. See Paul, 819 F.2d at 880. Courts
9 have adhered to the principle set forth in Prince v.
10 Massachusetts, 321 U.S. 158 (1944), that "[r]eligious
11 activities which concern only members of the faith are and ought
12 to be free -- as nearly absolutely free as anything can be."
13 Id. at 177 (Jackson, J., concurring). To permit juries to
14 distinguish among conversion practices would frustrate the First
15 Amendment principle that religious faiths be treated alike and
16 surely inhibit religious doctrine. Goldman v. Weinberger,
17 475 U.S. 503, 511-13 (1986) (Stevens, J., concurring); Paul,
18 819 F.2d at 883.

19 Simple consideration of the effect on the Church of
20 Scientology were Singer's theory of thought reform advanced
21 reveals the "pernicious rearrangement" in the relationship
22 between the Church and state that would result and thus the
23 theory's incompatibility with the First Amendment. Rayburn v.

24 22. Molko v. Holy Spirit Ass'n 46 Cal.3d 1092, 252 Cal.Rptr.
25 122 (Cal. 1988), is neither controlling nor contrary to this
26 authority. The Supreme Court of California in that case failed
27 to dismiss claims that involved allegations that the Unification
28 Church subjected plaintiffs to coercive persuasion only to the
extent the claims were premised on deception. 46 Cal.3d at
1116-23, 252 Cal.Rptr. at 135-39. No claim of deception is
made in the Aznarans' complaint.

1 General Conf. of Seventh Day Adventists, 772 F.2d 1164, 1169
2 (4th Cir. 1985), cert. denied 478 U.S. 1020 (1986).

3 Singer's theory could be invoked by all ex-members of the Church
4 to obtain damages for their participation in the Church.

5 Imposition of tort liability for the beliefs and practices
6 negatively cast by Singer as "sophisticated techniques" of
7 influence would amount to little less than a prohibition of
8 fundamental Church precepts and thus of the Church itself, and
9 would permit a result already found by this Circuit to restrict
10 impermissibly free exercise. Paul, 819 F.2d at 881.

11 Singer's theory of psychological coercion as applied to
12 religious practices is barred by the First Amendment, as the use
13 of any standard other than physical force to assess conversion
14 practices would impermissibly interfere with the free exercise
15 of religion.

16 III. SINGER'S BIAS DISQUALIFIES HER FROM

17 TESTIFYING AS AN EXPERT

18 Singer's predisposition to view certain organizations,
19 which she characterizes pejoratively as "cults," as engaging
20 in thought reform is so great as to strip her of the objectivity
21 essential for her opinion to have the probative value necessary
22 for it to be admissible. Although bias is often an issue going
23 to the weight of the expert testimony, it can reach such
24 proportions as to render the testimony inadmissible. Thus,
25 "where an expert becomes an advocate for a cause, [s]he
26 therefore departs from the ranks of an objective expert witness,
27 and any resulting testimony would be unfairly prejudicial and
28 misleading." Viterbo v. Dow Chemical Co., 646 F.Supp. 1420,

1 1425-26 (E.D. Tex. 1986), aff'd, 826 F.2d 420, 422-24 (5th
2 Cir. 1987); see also Proteus Books Ltd. v. Cherry Lane
3 Music Co., 873 F.2d 502, 515 (2d Cir. 1989) (affirming
4 finding that witness was not qualified to testify as an expert
5 because he was an interested party in case).

6 Singer's bias far exceeds that of one who simply testifies
7 repeatedly and even exclusively, for one side in a recurring
8 dispute, a point amply illustrated by one account she has given
9 for the APA's rejection of the Task Force Report. She explains
10 in a declaration "that a Lifespring operative, Leonard
11 Goodstein, and Newton Maloney arranged to have [the] report
12 rejected." Miller Decl. at para. 43 (Ex. D). Similarly,
13 she contends that the APA disbanded the Task Force "because they
14 were having so much pressure from various cultic organizations
15 that they really had not been aware of the amount of pressure
16 and harassment that was going to be put upon them." Gorman
17 Dep. at 20 (Ex. F). Thus, she readily attributes any action
18 disfavorable to her as the work of "cults."

19 Even more important, her bias has colored her search for
20 and analysis of evidence upon which to form an opinion as to the
21 existence and cause of an individual's psychological harm. As a
22 result, the evidence underlying her opinion that an organization
23 caused a particular stress, in this case as well as others, is
24 "so lacking in probative force and reliability that no
25 reasonable expert could base an opinion on that data."

26 Viterbo, 646 F.Supp. at 1424.^{23/}

27 23. For example, in Singer's deposition in Slee v. Werner
28 Erhard, she stated that the stress of the EST training program
was a causal factor in the plaintiff's death. Yet, Singer
(footnote continued)

1 Singer's prompting and characterization of plaintiffs'
2 statements is so transparent as to amount to little less than
3 coaching. For example, Singer states after listening to Richard
4 Aznaran's account of his life prior to joining the Church:

5 So when you went to Scientology you came from a
6 background where you could pretty much trust what
7 people said, that it was you know, just basic
8 American good will and trust.

9 Interview of February 4, Tape 1 at 12 (Ex. 0). However,
10 nothing in Aznaran's previous description suggested Singer's
11 remark, see Ex. 0 at 9-12, although such a characterization
12 comports with Singer's opinion that those who join the new
13 religions and other organizations she labels "cults" are
14 "trusting."

15 Throughout the interviews, Singer fails to question the
16 tales as recounted by the Aznarans, instead offering glosses for
17 their statements that support her theory and language to bolster
18 their stories. For example, when telling of his entry in the
19 Church, Richard described the period preceding it, shortly after
20 his return from Vietnam, as "pretty mixed up" and "confusing,"
21 stressing that at the time he began his affiliation with the

22 (footnote continued)

23 conceded that she had no knowledge whether Slee had revealed any
24 trauma during the workshop, whether he had been berated or of
25 his general state of mind during the training. Although Slee's
26 death "was the result of something that occurred in his
27 cardiovascular system," she did not know what Slee's normal blood
28 pressure was or whether he suffered from hypertension, nor did
she consider it relevant that his father had had a heart murmur.
Slee Dep. at 125, 150 (Ex. J). In fact, she had not even
read the autopsy report. Id. at 335. Singer's willingness
to force facts to meet her preordained conclusion indicates her
clear bias and rejection of professional standards.

1 Church he "was still messed up." Interview of February 4, 1989,
2 Tape 1 at 2-3, 16-17 (Ex. 0). Singer, having listened to these
3 statements, asks: "Now were you truly messed up or was it just
4 the normal state that other men that had been in Vietnam
5 felt[?]" Richard responded, "Oh no, it was just normal." Id.
6 at 17. Thus, Singer ignored Richard's prior statements and
7 coached Richard to characterize himself as "normal" by
8 presenting him with the choice only between being "truly messed
9 up" and "normal."

10 Similarly, after Vicki tells of her shock upon seeing her
11 sister be kind to a retarded man, Singer does not inquire about
12 Vicki's general attitude toward retarded persons, but instead
13 concludes, without basis in the interviews, "They'd [the Church]
14 been able to so detach you from your earlier compassion, your
15 whole view . . ." Interview of February 5 at 38 (Ex. P).^{24/}

16 The interviews are also replete with instances in which
17 Singer casts aspersions on the Church or the Aznarans'
18 experiences as abnormal. For example, after Richard describes
19 for Singer the Church's intolerance for a person's delay in
20 responding to questions, Singer states: "You know what strikes
21 me so amazingly is, the more I hear of these examples, the more

22 ^{24.} The exchange around Richard's concentration provides
23 another illustration. Richard described for Singer the
24 difficulty he had had when attempting to go to college soon
25 after leaving the Church. Singer responds: "Yeah, so that your
26 native endowment had already been established as superior, and
27 then you come out and have trouble going to college," on the
28 basis of Richard's statements that he had a high score he
obtained on an Air Force test and the ease with which he went
through air traffic control school. Interview of February 5 at
26 (attached as Exhibit P), without asking about Richard's prior
school experience nor probing about his statements that he
"probably didn't really apply [himself] that well" while in high
school. Interview of February 4 at 11 (Ex. 0).

1 the desire is to have a zombie-like Manchurian Candidate-like
2 person that obeys without thinking, without delay, and does
3 exactly what the Scientology policy is to be." Interview of July
4 28, 1989 at 54 (attached as Exhibit Q). See also id. at
5 17 (coaches Richard to describe the Church as more coercive than
6 the military).

7 The self-serving accounts of the plaintiffs, particularly
8 when prompted by Singer, can hardly provide reliable support for
9 the proffered opinion that the Church of Scientology caused
10 plaintiffs harm. The Sixth Circuit's opinion in Viterbo is
11 instructive. In that case, the expert, unlike Singer, at least
12 sought to rely, in addition to the plaintiff's account, on tests
13 that he conducted to support his findings that plaintiff's
14 physical ailments were caused by exposure to a particular
15 pesticide. Having concluded those tests were unfounded or
16 incapable of supporting the conclusion, the court held that
17 plaintiff's statements did not provide the "foundation and
18 reliability necessary to support expert opinion. . . . Indeed,
19 [the] testimony is little more than [plaintiff's] testimony
20 dressed up and sanctified as the opinion of an expert." 826 F.2d
21 at 424. Accordingly, the court affirmed the exclusion of the
22 expert testimony. Id. Singer's testimony, like that of the
23 expert in Viterbo, must be excluded.

24 IV. THE PREJUDICIAL VALUE OF SINGER'S TESTIMONY,

25 WERE IT ADMITTED, FAR EXCEEDS ANY PROBATIVE VALUE

26 Even if Singer's testimony were found to have probative
27 value -- which it does not for the reasons set forth above -- it
28 still must be excluded. Singer's proposed testimony that the

1 Church of Scientology "coercively persuade[d] the Aznarans to
2 blindly adhere to its directives through the creation [of] an
3 identifiable system of control, domination and obedience," see
4 Expert Interrogatory Responses at 17 (Ex. B), is so
5 inflammatory that it would serve only to prejudice the jury
6 against the Church. See Fed.R.Evid. 403. Her theory,
7 set forth by an "expert," does no more than offer legitimacy to
8 negative value judgments about the Church and to a refusal to
9 accept that individuals could choose to adopt the beliefs and
10 way of life of the Church of Scientology. United States v.
11 Amaral, 488 F.2d 1148, 1152 (9th Cir. 1973) (risk of undue
12 prejudice is particularly great with expert testimony because of
13 "aura of special reliability and trustworthiness" surrounding
14 such testimony); see also United States v. Gillespie, 852
15 F.2d 475, 480 (9th Cir. 1988). Similarly, in this case,
16 Singer's testimony would be extremely prejudicial and thus must
17 be excluded.

18 CONCLUSION

19 The court in Fishman held that the issue of whether
20 Singer's unsupported theories fail to satisfy the Frye test
21 "is not one of first impression among the federal courts."
22 Fishman, 743 F.Supp at 718. Indeed, an ever growing body of
23 federal case law has resoundingly rejected Singer's unsupported
24 and prejudicial theories. Guided by the scholarly criticism set
25 forth above and by this overwhelming body of precedent, this
26 Court, like the court in Fishman, in Greene and in
27 Kropinski must reject Singer's theories and exclude the
28 testimony of Margaret Singer from this action.

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Blvd., Suite 2000, Hollywood, California 90028.

On July 29, 1991, I caused to be served the foregoing document described as NOTICE OF MOTION AND MOTION TO EXCLUDE TESTIMONY OF PLAINTIFFS' DESIGNATED EXPERT MARGARET SINGER; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO EXCLUDE TESTIMONY OF PLAINTIFFS' DESIGNATED EXPERT MARGARET SINGER on interested parties in this action by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Hollywood, California, addressed as follows:

Ford Greene **HAND SERVED**
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

If hand service is indicated on the above list, I caused the above-referenced paper to be served by hand.

Executed on July 29, 1991 at Hollywood, California.

